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Attorneys for Receiver, R. Wayne Klein

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

SECURITIES AND EXCHANGE  
COMMISSION,

and

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiffs,

v.

DAREN L. PALMER and TRIGON  
GROUP, INC.

Defendants.

Civ. No. 4:09-cv-00075-E-EJL (dks)

Civ. No. 4:09-cv-00076-E-EJL (dks)

The Honorable Edward J. Lodge

**RECEIVER'S MOTION FOR ORDER:  
(I) APPROVING THE FINAL STATUS  
REPORT AND ACCOUNTING, (II)  
APPROVING PAYMENT OF FIFTH  
AND FINAL DISTRIBUTION, (III)  
APPROVING PAYMENT OF FEES  
AND EXPENSES (FOR THE PERIOD  
FROM OCTOBER 1, 2013), AND (IV)  
CLOSING RECEIVERSHIP CASE  
AND MEMORANDUM IN SUPPORT**

R. Wayne Klein, the Court-Appointed Receiver (the "Receiver") of Trigon Group, Inc. ("Trigon") and all the assets of Daren L. Palmer (the "Receivership Entities" and/or "Palmer"), hereby submits this status report and motion and memorandum in support seeking approval to:

1. Make a fifth and final distribution of \$397,000.00 to allowable claimants;
2. Pay fees and expenses of the Receiver and his counsel for the period since October 1, 2013;
3. Close the Receivership Estate; and
4. Take actions necessary to wind down and close the Receivership Estate.

### **MEMORANDUM IN SUPPORT**

#### **I. STATUS REPORT AND FINAL ACCOUNTING**

A. Background of the Receivership. This case began on February 26, 2009 with companion lawsuits filed by the SEC and CFTC alleging the Trigon and Palmer were operating a Ponzi scheme.<sup>1</sup> The same day, the Court appointed the Receiver to take control of Trigon and the assets of Palmer.<sup>2</sup> Final judgments were entered against Mr. Palmer and Trigon in the SEC matter on July 19, 2010 and against Palmer in the CFTC matter on October 4, 2010. On May 24, 2011, Palmer pleaded guilty to two criminal counts for his conduct in operating Trigon. He was sentenced on September 20, 2011 and remains incarcerated.

B. Status Reports. The Receiver has filed twenty-five quarterly status reports. The most recent report, covering the period from January 1, 2015 to March 31, 2015, was filed on April 23, 2015.<sup>3</sup>

C. Litigation Developments Since March 31, 2015. Since March 31, 2015, there have been two developments of note. First, Sight & Sound By Design completed payment of the

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<sup>1</sup> UDSC Case No. 4:09-cv-00075, DKT No. 1.

<sup>2</sup> UDSC Case No. 4:09-cv-00075, DKT No. 8.

<sup>3</sup> UDSC Case No. 4:09-cv-00075, DKT No. 184.

\$40,000.00 it owed in its settlement with the Receiver. Second, the Receiver agreed with Stephan Lawson to accept \$10,000.00 in satisfaction of the judgment entered against him. This settlement was based on financial hardship demonstrated by Lawson. A Notice of Settlement was filed with the Court on June 11, 2015.<sup>4</sup> With receipt of these funds, all of the litigation commenced by the Receiver has been completed and all judgments collected or settled.

D. Property Sales Since March 31, 2015. Since the date of the prior status report, the final property held in the Receivership Estate—the vacant commercial lot on Eagle Road in Meridian, Idaho—sold at auction. The net proceeds from the sale, \$56,423.93, were deposited into the Receivership bank account.

E. Financial Summary. Since March 31, 2015, the Receivership has received \$106,423.93 from the sale of the Southstone property in Meridian, Idaho and settlement payments from Sight and Sound By Design and Stephan Lawson. The amount of funds in the Receivership bank accounts as of June 12, 2015 is \$444,427.02.

F. Final Accounting. The following tables categorize and summarize the total funds recovered by the Receiver and the total expenditures since the beginning of the Receivership:

<b>SOURCES OF FUNDS</b>	
Trigon assets (brokerage account)	\$813.04
Daren Palmer real estate, other assets	\$2,206,287.08
Funds recovered from family members	\$353,430.58
Overpaid investors	\$518,750.88
Credit card companies	\$800,500.00
Charitable contributions	\$483,193.30
Other fraudulent or improper transfers	\$2,686,187.13
Refunds, reimbursement of expenses paid	\$13,172.31
Interest earned on receivership accounts	\$18,911.46
<b>Total funds recovered</b>	<b>\$7,081,245.78</b>

<sup>4</sup> UDSC Case No. 4:09-cv-00075, DKT No. 185.

<b>EXPENDITURES TO DATE</b>		<b>TOTAL IF MOTION IS APPROVED</b>
Investor distributions	\$4,807,382.38	\$5,204,382.38
Property expenses	\$262,310.09	\$262,310.09
Property lien payoffs	\$220,000.00	\$220,000.00
Family support payments to Mrs. Palmer	\$16,000.00	\$16,000.00
Administrative expenses, tax preparation	\$27,671.12	\$27,671.12
Bank fees	\$746.66	\$746.66
Professional fees (receiver and legal)	\$1,302,708.51	1,345,051.08
<b>Total funds expended</b>	<b>\$6,636,818.76</b>	<b>\$7,076,161.33</b>
<b>Net (amount currently in bank)</b>	<b>\$444,427.02</b>	<b>\$5,084.45</b>

## **II. FIFTH AND FINAL DISTRIBUTION OF FUNDS TO CLAIMANTS**

A. Prior Distributions. The first distribution to claimants was approved by the Court on March 7, 2011 and paid by the Receiver on March 10, 2011.<sup>5</sup> This first distribution was in the amount of \$3,018,252.33, consisting of \$1,018,252.33 paid to objectors and other claimants who otherwise would not have received any payments as part of the first distribution and \$2,000,000.00 to 24 claimants who qualified to receive distributions under the “rising tide” distribution methodology approved by the Court.

A second distribution in the amount of \$300,000.00 was approved on March 2, 2012,<sup>6</sup> a third distribution in the amount of \$800,000.00 was approved on September 21, 2012,<sup>7</sup> and a

<sup>5</sup> UDSC Case No. 4:09-cv-00075, DKT No. 130.

<sup>6</sup> UDSC Case No. 4:09-cv-00075, DKT No. 145. A total of \$300,000.01 was paid.

<sup>7</sup> UDSC Case No. 4:09-cv-00076, DKT No. 110

fourth distribution in the amount of \$689,130.04 was approved on January 22, 2014.<sup>8</sup> Total distributions to date have been \$4,807,382.38.

B. Proposed Fifth and Final Distribution. The Receiver proposes to make a fifth and final distribution in the amount of \$397,000.00. If approved, this fifth distribution will have resulted in the payment to investors of the total amount of \$5,204,382.38. The prior and proposed distributions are summarized in the table below:

Date	Recipients	Amount	Allowable Claim Amount	% of Allowable Claim
3/10/11	Objectors	\$1,018,252.33		
3/10/11	Allowable claimants	\$2,000,000.00	\$9,991,300.40	20.02%
3/5/12	Allowable claimants	\$300,000.01	\$9,991,300.40	3.00%
9/24/12	Allowable claimants	\$800,000.00	\$9,991,300.40	8.01%
1/23/14	Allowable claimants	\$689,130.04	\$9,991,300.40	6.90%
Proposed	Allowable claimants	\$397,000.00	\$9,991,300.40	3.97%
Total	Allowable claimants	\$4,186,130.05	\$9,991,300.40	41.90%

The Receiver recommends that the final distribution amount be paid to the following allowable claimants in the amounts listed in the far right column in the table below:

Claim #	Allowable Claim Amount	Total of Prior Distributions	Proposed Final Distribution
2001	2,162,500.00	585,857.83	85,926.00
2030	105,000.00	32,591.25	4,172.13
2017	312,582.50	114,042.38	12,420.33
2032A	94,000.00	35,605.85	3,735.05
2003	2,738,700.00	1,116,101.63	108,821.06
2035	37,500.00	15,602.19	1,490.05
2002	1,000,000.00	416,058.46	39,734.57
2004	25,000.00	10,401.46	993.36
2006	200,000.00	83,211.69	7,946.91
2007	50,000.00	20,802.92	1,986.73

<sup>8</sup> UDSC Case No. 4:09-cv-00075, DKT No. 135.

2008	55,500.00	23,091.24	2,205.27
2009	420,000.00	174,744.55	16,688.52
2012	100,000.00	41,605.85	3,973.46
2013	250,000.00	104,014.62	9,933.64
2016	160,000.00	66,569.36	6,357.53
2022	250,000.00	104,014.62	9,933.64
2023	378,000.00	157,270.10	15,019.67
2024	500,000.00	208,029.23	19,867.28
2025	125,000.00	52,007.30	4,966.82
2026	35,000.00	14,562.04	1,390.71
2027	898,787.00	373,947.94	35,712.91
2028	11,000.00	4,576.64	437.08
2029	20,000.00	8,321.17	794.69
2033	62,730.90	26,099.72	2,492.59
<b>Total</b>	<b>9,991,300.40</b>	<b>3,789,130.04</b>	<b>397,000.00</b>

### **III. APPLICATION FOR APPROVAL OF FEES AND EXPENSES OF THE RECEIVER AND COUNSEL**

Through this application, the Receiver, on behalf of himself, Klein & Associates, PLLC, and Hawley Troxell, the Receiver's counsel, is requesting approval of compensation for services provided to the Receivership Estate between October 1, 2013 and June 10, 2015, the date this application was submitted to the SEC and CFTC for review ("Application Period").<sup>9</sup>

A. Prior Distributions. The prior fee application approved by the Court was on January 7, 2014, for the one-year period from October 1, 2012 to September 30, 2013.<sup>10</sup> Fees and expenses for work performed since October 1, 2013 have not been paid.

B. Work Performed Since October 1, 2013. As described in status report numbers twenty through twenty five, significant accomplishments have been achieved since October

<sup>9</sup> The Receiver expended a relatively small amount of out-of-pocket expenses during the Application Period relating to travel for the hearing before the Ninth Circuit Court of Appeals. He is not seeking reimbursement for these expenses.

<sup>10</sup> UDSC Case No. 4:09-cv-00076, DKT No. 132 (Order Approving Ninth Fee Application).

2013, making the closing of the Receivership Estate possible. The notable accomplishments since October 2013 include:

- Settlement of litigation with Capital One (\$55,500 payment and dismissal of Capital One's appeal),
- The marketing and sales of the final three properties in the Receivership Estate: the Idaho Falls mansion (\$722,586.08 in net proceeds), the Ammon Road property (\$111,711.62), and the Southstone property (\$56,423.93),
- Collecting the \$40,000 owed on the Sight and Sound Design settlement,
- Winning affirmance of Doyle Beck's appeal of the judgment obtained against him and collecting on the judgment (\$87,889.47),
- Selling the last personal property asset of the Receivership (\$1,750.00),
- Obtaining a judgment against Stephan Lawson and filing garnishments that led to settlement with Lawson (in the amount of \$10,000.00),
- Obtaining approval for and sending the fourth distribution to investors in January 2014 (\$689,130.04),
- Preparing and filing six interim status reports, and
- Preparing this final report and motion to terminate the Receivership Estate and to make a final distribution of assets.

C. Summary of Fees and Expenses.

1. Receiver, Klein & Associates. During the Application Period, the Receiver and employees of Klein & Associates spent 85.2 hours administering the Receivership Estate. The Receiver seeks total earned fees of \$19,440.50. An additional 13.6 hours were spent by the

Receiver and his staff on this matter which are not being billed to the Receivership Estate. A summary of these fees is attached as Exhibit A. A detailed invoice describing the work performed by the Receiver and his staff on a daily basis has been provided to the SEC and CFTC and are being filed with the Court under seal. The detailed invoices are not being made public because they include investment and personal information about investors, describe negotiating stances taken by the Receiver, and include information subject to the attorney-client privilege.

2. Hawley Troxell. During the Application Period, counsel for the Receiver spent 101.6 billable hours providing legal services for the Receiver and the Receivership Entities. Hawley Troxell seeks total earned fees of \$18,789.50. Hawley Troxell is also seeking reimbursement of \$4,112.57 in expenses incurred on behalf of the Receivership Estate during the Application Period.<sup>11</sup> A summary of these fees and expenses is attached as Exhibit B. A detailed invoice describing the work performed by Hawley Troxell on a daily basis has been provided to the SEC and CFTC and are being filed with the Court under seal. The detailed invoices are not being made public because they include investment and personal information about investors, describe negotiating stances taken by the Receiver, and include information subject to the attorney-client privilege.

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<sup>11</sup> In addition, Hawley Troxell has voluntarily waived recovery of \$895.62 in fees that were earned. The waived amounts are identified in the detailed invoices.



3. Total. Total fees and expenses requested are as follows:

	<u>Fees</u>	<u>Expenses</u>	<u>Total</u>
Receiver and Klein & Associates	\$19,440.50	\$0.00	\$19,440.50
Hawley Troxell	<u>\$18,789.50</u>	<u>\$4,112.57</u>	<u>\$22,902.07</u>
<b>Total</b>	<b>\$38,230.00</b>	<b>\$4,112.57</b>	<b>\$42,342.57</b>

D. Request for Court Approval, Review by SEC and CFTC. Pursuant to ¶ h on page 5 of the Order Appointing a Receiver in the SEC action<sup>12</sup> and ¶ IV.G of the Order Granting Motion for Statutory Restraining Order in the CFTC action,<sup>13</sup> the Receiver submitted to the SEC and CFTC drafts of this Motion and copies of the detailed invoices for the fees and expenses for review. The SEC has advised the Receiver that it has no objections to the fee application.<sup>14</sup>

The Receiver respectfully requests approval of the fees and expenses incurred by the Receiver and his professionals as set forth herein and authorizing the Receiver to pay such amounts in connection with termination of the Receivership Estate.

#### IV. CLOSING THE RECEIVERSHIP ESTATE

A. The Receivership Estate is Ready to be Terminated. The Receivership Estate should be terminated now because: 1) all assets of the Receivership Estate have been liquidated,<sup>15</sup> 2) all litigation commenced by the Receiver has been concluded, 3) all appeals of judgments obtained by the Receiver have been resolved, 4) all judgments obtained by the

<sup>12</sup> UDSC Case No. 4:09-cv-00075, DKT No. 8.

<sup>13</sup> UDSC Case No. 4:09-cv-00076, DKT No. 8 .

<sup>14</sup> The CFTC has not given any comments to the Receiver and the Receiver has no reason to believe the CFTC has any objections to the fee application or other components of this motion.

<sup>15</sup> This excludes the Trigon computer delivered to the Receiver by Palmer.

Receiver have been collected in whole or in compromised amounts, and 5) all claims and objections against the Receivership Estate have been resolved. As a result, there is no further work for the Receiver to accomplish beyond paying the final administrative expenses, distributing the remaining funds of the Receivership Estate, and carrying out the termination of the Receivership Estate (including filing final tax returns and disposing of Receivership records).

B. Authorization to the Receiver to Abandon or Turn Over Records Held by the Receiver. Because all litigation, appeals, claims, and collections relating to the Receivership Estate have been resolved, there is no need for the Receiver to retain records of the Receivership Estate for an extended time. The Receiver requests that the Court enter an order providing that any interested party that wishes to take custody and control of the documents currently in the possession of the Receiver, and who demonstrates a legitimate interest in the documents and an intent to protect confidential information contained in those documents, has thirty (30) days after entry of the Court's order to make arrangements with the Receiver, at the other party's own expense, to take control of the documents. If no party makes a claim to the documents within thirty (30) days after entry of the order, the Receiver should be authorized to dispose of the documents when he has no further need of them.

C. Discharge. The Receiver asks that the Receiver, his counsel, and their agents be discharged of any liability to any person or entity for actions taken in good faith in carrying out the Receiver's administration of the Receivership Estate and the exercise of his powers, duties, and responsibilities in connection therewith. This discharge and release of all claims, liabilities, and duties should be effective upon payment of final administrative expenses, final distribution of funds, and the filing of final tax returns for the Receivership Estate.

D. Establishment of Reserve for Closing Tasks. The Receiver requests approval by the Court for him to establish a reserve in the amount of \$5,084.45<sup>16</sup> (the “Reserve”) and to make payments from the Reserve to tax professionals, the Receiver, Hawley Troxell, or other outside vendors for costs in connection with those winding-down actions taken after the payment of administrative fees and expenses (addressed above in Part III).<sup>17</sup> This likely will include fees for the preparation and submission of tax returns, destruction of documents, and the payment of fees and expenses of the Receiver and his counsel incurred after filing of this motion (including time spent seeking approval of this motion). The order should provide that the SEC and CFTC may require the Receiver to report to them promptly on expenditures from the Reserve. Any surplus reserve remaining after the payment of outstanding fees and expenses shall be turned over to the SEC for disposition according to its policies and procedures.

E. Outstanding Tax Returns Due. Tax preparers engaged by the Receiver are in the process of preparing 2014 tax returns. A final tax return for 2015 will also need to be prepared and filed. The Receiver requests an order authorizing him to prepare and submit post-receivership tax returns as the Receiver determines to be necessary or appropriate and to pay for the services of those tax preparers from the Reserve.

F. Retention of Jurisdiction. The Court should retain jurisdiction over all matters relating to the Receiver and the Receivership Estate, including any matters relating to the distribution of funds approved in connection with termination of the Receivership Estate, after

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<sup>16</sup> This amount would be supplemented by any interest earned on the Receivership bank accounts until the funds are distributed.

<sup>17</sup> The Receiver paid \$2,703.22 to an outside accounting firm for preparation of 2013 tax returns. Returns for 2014 and 2015 will need to be filed by the Receiver. Thus, the Reserve amount is likely to be exhausted simply by tax preparation fees.

the Receivership is closed.


**CONCLUSION**

The Receivership has accomplished its purposes and should be closed. The Receiver asks that the Court enter an order containing the terms described in this motion. A proposed order is attached as Exhibit C.

DATED this 16<sup>th</sup> day of June, 2015.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By

  
\_\_\_\_\_  
John F. Kurtz, Jr., Attorneys for the  
Receiver, R. Wayne Klein

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 16<sup>th</sup> day of June, 2015, I electronically filed the foregoing MOTION with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

Karen L. Martinez  
Tanya Beard  
Securities and Exchange Commission  
351 South West Temple, Suite 6.100  
Salt Lake City, UT 84101  
martinezk@sec.gov  
*Counsel for Plaintiff Securities and Exchange  
Commission*

Alison B. Wilson  
John W. Dunfee  
Division of Enforcement  
Commodity Futures Trading Commission  
1155 21st Street, N.W.  
Washington, D.C. 20581  
jdunfee@cftc.gov  
awilson@cftc.gov

*Counsel for Plaintiff Commodity Futures  
Trading Commission*

AND, I HEREBY CERTIFY that I have served the foregoing document to the following non-CM/ECF Registered Participants (list names and addresses):

Daren L. Palmer, #13952-023  
Taft Correctional Institution  
PO Box 7001  
Taft, CA 93268


☒ U.S. Mail, Postage Prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ E-mail  
☐ Telecopy

*Defendant*

Alan Conilogue  
Deputy Attorney General  
State of Idaho  
PO Box 83720  
Boise, ID 83720-0031

☒ U.S. Mail, Postage Prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ E-mail  
☐ Telecopy

*Local Counsel for Plaintiffs*

  
\_\_\_\_\_  
John F. Kurtz, Jr.

**EXHIBIT A - INVOICE SUMMARY****Receiver/Klein & Associates**

**DATE:** June 5, 2015  
**CLIENT:** TRIGON RECEIVERSHIP

***Summary of Services:***

<b>Professional</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
Wayne Klein	72.2	250.00	18,050.00
Wayne Klein	13.4	0.00	0.00
Rendell Etherington	8.0	120.00	960.00
Rendell Etherington	0.2	0.00	0.00
James Shupe	0.9	120.00	108.00
Jill Howe	0.6	100.00	60.00
Keith Williams	3.5	75.00	262.50
<b>Total</b>	<b>98.8</b>		<b>19,440.50</b>
<b>Total Fees Requested</b>			<b>19,440.50</b>

**EXHIBIT B - INVOICE SUMMARY**

Hawley Troxell

For Period October 1, 2013 to May 31, 2015

<b>Matter</b>	<b>Hours</b>	<b>Fees</b>	<b>Costs</b>	<b>Total</b>
General Receivership	4.8	955.00	731.42	1,686.42
Klein v. Dean Palmer	0.2	54.00	0.90	54.90
Klein v. Beck	80.9	15,194.00	2,950.83	18,144.83
Klein v. Lawson	15.7	2,586.50	429.42	3,015.92
<b>Total</b>	<b>101.6</b>	<b>18,789.50</b>	<b>4,112.57</b>	<b>22,902.07</b>

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

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SECURITIES AND EXCHANGE  
COMMISSION,

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COMMODITY FUTURES TRADING  
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DAREN L. PALMER and TRIGON  
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Defendants.

Civ. No. 09-075-E-EJL (dks)

Civ. No. 09-076-E-EJL (dks)

The Honorable Edward J. Lodge

**[PROPOSED] ORDER:**

**(I) APPROVING THE FINAL STATUS  
REPORT AND ACCOUNTING, (II)  
APPROVING PAYMENT OF FIFTH  
AND FINAL DISTRIBUTION, (III)  
APPROVING PAYMENT OF FEES  
AND EXPENSES (FOR THE PERIOD  
FROM OCTOBER 1, 2013), AND (IV)  
CLOSING RECEIVERSHIP CASE**

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The matter before the Court is the Receiver's Motion for an Order: (I) Approving the Final Status Report and Accounting, (II) Approving Payment of a Fifth and Final Distribution to investors, (III) Approving Payment of Fees and Expenses (for the Period from October 1, 2013), and (IV) Closing the Receivership Estate and Memorandum in Support ("Motion") filed by R. Wayne Klein, the Court-Appointed Receiver of Trigon Group, Inc. and the assets of Daren L.

**EXHIBIT C**



Palmer. The Court has reviewed the Motion and Memorandum and the file and based thereon and for good cause shown,

IT IS HEREBY ORDERED that:

1. The Motion is APPROVED in its entirety.
2. Approval of Final Status Report and Accounting. The Receiver's Final Status Report and Accounting included in the Motion is hereby approved and all actions and activities taken by or on behalf of the Receiver and all payments made by the Receiver in connection with the administration of the Receivership Estate are hereby approved and confirmed.
3. Approval of Final Distribution Payment to Claimants. The Receiver is authorized to make a final distribution payment in the amount of \$397,000.00 to the twenty-four (24) allowable claimants identified in the Motion, in the amounts requested by the Motion. In connection therewith: (a) all distribution checks issued on account of the final distribution to allowable claimants are required to be negotiated within ninety (90) days of the date of issuance ("Stale Date Deadline"), and checks returned without a valid forwarding address (for which the Receiver cannot find a valid forwarding address) or checks uncashed after the Stale Date Deadline are hereby deemed void and (b) the Receiver is hereby authorized to turn over to the SEC any distribution payments that remain uncashed after the Stale Date Deadline.
4. Approval of Fees and Expenses. All Receivership administrative fees and expenses incurred in this Receivership proceeding, including the Receiver's fees and expenses and those of his counsel and other professionals incurred in connection with the Receivership proceeding, are hereby approved. All administrative expenses and the Receiver's and

professionals' fees and expenses requested by the Motion, incurred during the period from October 1, 2013 through the date of the Motion, are hereby approved and authorized to be paid from assets of the Receivership Estate.

5. Destruction of Records. The Receiver is authorized to abandon and destroy the electronic and paper records of the Receivership Entities and of any other corporations or businesses in the Receiver's possession, custody, or control (including records obtained by the Receiver from government agencies, banks, or other persons) if, within thirty (30) days after entry of this Order, no qualified person has made a claim to the documents pursuant to the terms described in the Motion. In effecting the destruction of records, the Receiver shall take reasonable steps to ensure that personal or confidential information is destroyed in a manner that the information cannot be read or reconstructed.

6. Abandonment of Assets. Any assets not distributed or otherwise administered by the Receiver as of the closing of the Receivership Estate, such as computers owned by Trigon, are deemed abandoned. Abandoned assets may be destroyed or discarded, without regard to title or value, in the sole and absolute discretion of the Receiver.

7. Discharge. Neither the Receiver nor any agent, employee, member, officer, independent contractor, attorney, or representative of the Receiver shall have any liability to any person or entity for any action taken in connection with carrying out the Receiver's administration of this Receivership Estate and the exercise of any powers, duties, and responsibilities in connection therewith. Effective upon the Receiver's completion of payment of administrative expenses, final distribution of funds, and filing of required tax returns as provided

herein, the Receiver and his agents, employees, members, officers, independent contractors, attorneys, and representatives are: (a) discharged, (b) released from all claims and liabilities arising out of and/or pertaining to the Receivership, and (c) relieved of all duties and responsibilities pertaining to this Receivership (with the exception of the obligation to destroy records, which duty will survive until the records destruction is complete).

8. Establishment of Reserve for Closing Tasks. The Court authorizes the Receiver to establish a reserve in the amount of \$5,084.45 (plus interest that accrues on the Receivership bank accounts) (the “Reserve”) and to make payments from the Reserve to tax professionals, the Receiver, Hawley Troxell, or other outside vendors for costs incurred in connection with those actions taken after the date from which administrative fees and expenses to wind down and close the Receivership Estate were calculated. The SEC or the CFTC may require the Receiver to report to them promptly on expenditures from the Reserve. Any surplus reserve remaining after the payment of outstanding expenses and fees shall be remitted to the SEC for disposition according to its policies and procedures.

9. Outstanding Tax Returns. The Receiver, by and through its tax professionals, may prepare and submit any post-receivership tax returns for the Receivership Entities as the Receiver determines to be necessary or appropriate and to make payment for preparation of those returns from the Reserve.

10. Jurisdiction. This Court shall retain jurisdiction over any and all matters relating to the Receiver, the Receivership, and the Receivership Estate, including any matters relating to the distribution of funds received by the Receiver in connection with his obligations as Receiver

or otherwise received after the Receivership is closed. To the extent any dispute arises concerning the Receiver's administration of the Receivership Estate or to the extent any person or entity seeks to pursue or assert any claim or action against the Receiver or any agent, employee, member, officer, independent contractor, attorney, or representative of the Receiver, arising out of or related to this Receivership, the Court shall retain jurisdiction to hear and resolve any such dispute or claim.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2015.

**BY THE COURT**

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The Honorable Edward J. Lodge  
United States District Judge